

ORDINANCE _____

AN ORDINANCE relating to land use, zoning, and environmental protection; creating a new Chapter 25.11, and amending Sections 23.41.012, 23.41.016, 23.44.014, 23.45.014, and 23.45.056 of the Seattle Municipal Code to protect trees on undeveloped land and to provide for the added protection of trees during the development process.

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council finds that:

A. Trees provide a valuable asset to the community as a whole and that preserving trees provides valuable environmental, economic, and aesthetic benefits to the citizens and businesses of Seattle. Retention of trees can promote the public health, safety and general welfare.

B. Trees have the following benefits:

1. Preserve and enhance the City's natural beauty;
2. Provide varied and rich habitats for wildlife;
3. Moderate the effects of wind and temperature and have a positive impact on global climate change;
4. Slow runoff from precipitation, reduce soil erosion and sedimentation and pollution of natural waterways; and thus minimize the public and private costs for storm water control and treatment and utility maintenance;
5. Improve air quality, through the absorption of pollutants and contamination;
6. Mask unwanted sound and reduce noise pollution; and
7. Enhance the economic value of both new and existing development.

C. Tree removal to accommodate urban development has resulted in the loss to the public of these beneficial functions of trees and has also resulted in environmental degradation.

Section 2. A new Chapter 25.11 is hereby added to Title 25, of the Seattle Municipal Code (SMC), as follows:

CHAPTER 25.11 TREE PROTECTION

25.11.010 Purpose and Intent.

It is the purpose and intent of this Chapter to:

1 A. Implement the goals and policies of Seattle's Comprehensive Plan especially
2 those in the Environment Element dealing with protection of the urban forest.

3 B. To preserve and enhance the city's physical and aesthetic character by preventing
4 untimely and indiscriminate removal or destruction of trees.

5 C. To protect trees on undeveloped sites that are not undergoing development by not
6 allowing tree removal except in hazardous situations, to prevent premature loss of trees so
7 their retention may be considered during the development review and approval process.

8 D. To reward tree protection efforts by granting flexibility for certain development
9 standards, and to promote site planning and horticultural practices that are consistent with
10 the reasonable use of property.

11 E. To especially protect heritage trees that because of their unique historical,
12 ecological, or aesthetic value constitute an important community resource; to require
13 flexibility in design to protect heritage trees.

14 F. To provide the option of modifying development standards to protect trees over
15 two feet in diameter in the same manner that modification of development standards is
16 required for heritage trees.

17 G. To encourage retention of trees over six inches in diameter through the design
18 review and other processes for larger projects, through education concerning the value of
19 retaining trees, and by not permitting their removal on undeveloped land prior to
20 development permit review.

21 **25.11.020 Definitions.**

22 "Director" means the Director of the Department of Design, Construction and Land Use.

23 "Drip line" means an area encircling the base of a tree, the minimum extent of which is
24 delineated by a vertical line extending from the outer limit of a tree's branch tips down to
25 the ground.

26 "Feeder root zone" means an area encircling the base of a tree equal to twice the diameter of
27 the drip line.

28 "Hazardous tree" means any tree or tree part that poses a high risk of damage to persons or
29 property, and that is designated as such by the Director according to the tree hazard
30 evaluation standards established by the International Society of Arboriculture.

31 "Heritage tree" means a tree that because of its unique historical, ecological, or aesthetic
32 value constitutes an important community resource, and is designated as such by the
33 Director according to standards and procedures promulgated by the Department of Design,
34 Construction and Land Use.

“Inner root zone” means an area encircling the base of a tree equal to one-half the diameter of the drip line.

“Topping” means the cutting back of limbs to stubs within the tree’s crown, to such a degree as to remove the normal canopy and disfigure the tree; or the cutting back of limbs or branches to lateral branches that are less than one-half of the diameter of the limb or branch that is cut.

“Tree removal” means removal of a tree(s) or vegetation, through either direct or indirect actions including, but not limited to, clearing, topping or cutting, causing irreversible damage to roots or trunks; poisoning; destroying the structural integrity; and/or any filling, excavation, grading, or trenching in the dripline area of a tree which has the potential to cause irreversible damage to the tree, or relocation of an existing tree to a new planting location.

“Undeveloped lot” means a lot on which no buildings or structures are located.

25.11.030 Exemptions.

The following activities are exempt from the provisions of this chapter:

- A. Normal and routine pruning operations and maintenance;
- B. Abatement of hazardous tree or tree part as approved by the Director;
- C. Emergency activities necessary to remedy an immediate threat to public health, safety, or welfare;
- D. Tree removal undertaken as part of tree and vegetation management and revegetation of public parkland and open spaces by responsible public agencies or departments;
- E. Tree removal approved as part of an Environmentally Critical Area revegetation plan as provided in Section 25.09.320;
- F. Tree removal shown as part of an issued building or grading permit as provided in Sections 25.11.060, 25.11.070, and 25.11.080; and
- G. Removal of street trees as regulated by Title 15 of the SMC.

25.11.040 Restrictions on tree removal.

- A. Tree removal or topping is prohibited in the following cases, except as provided in Section 25.11.030:
 - 1. All trees six (6) inches or greater in diameter, measured four and one-half (4.5) feet above the ground, on undeveloped land; and
 - 2. Heritage trees on undeveloped land or on a lot developed with a single family house located in a zone other than single family.

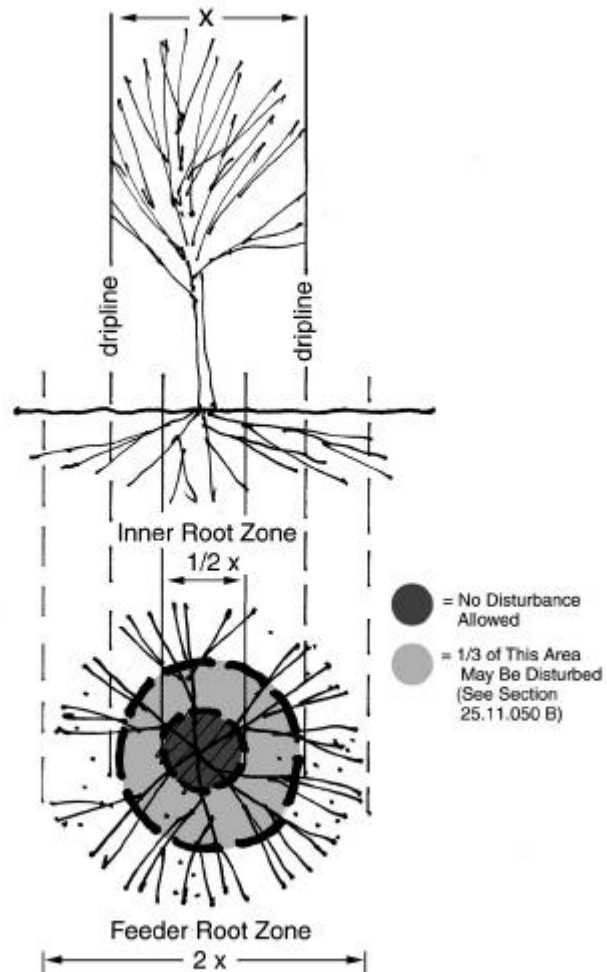
1 B. Tree removal in Environmentally Critical Areas shall follow the provisions of
2 Section 25.09.320.

3 **25.11.050 General Provisions for Heritage tree determination and tree protection**
4 **area delineation in Single Family, Residential Small Lot, Lowrise, Midrise, and**
5 **Commercial zones.**

6 A. Heritage trees and potential heritage trees shall be identified on site plans and
7 heritage tree status shall be determined by the Director according to standards promulgated
8 by the Department of Design, Construction and Land Use.

9 B. Tree protection areas for heritage trees shall be identified on sites plans.
10 Applicants seeking development standard waivers to protect other trees greater than two (2)
11 feet in diameter measured four and one-half (4.5) feet above the ground shall also indicate
12 tree protection areas on site plans. The basic tree protection area shall be the area within the
13 drip line of the tree. The tree protection area may be reduced if approved by the Director
14 according to a plan prepared by a tree care professional. Such reduction shall be limited to
15 one-third of the area within the outer half of the area within the drip line. In no case shall
16 the reduction occur within the inner root zone. In addition, the Director may establish
17 conditions for protecting the tree during construction within the feeder root zone. (See
18 Exhibit 25.11.050 B.)

Exhibit 25.11.050 B



C. If development standards have been modified according to the provisions of this Chapter to avoid development within a designated tree protection area, that area shall remain undeveloped for the remainder of the life of the building, and a permanent covenant stating this requirement shall be recorded in the King County Office of Records and Elections.

D. The Director may require a tree protection report by a tree care professional that provides the following information:

1. Tree evaluation with respect to its general health, damage, danger of falling, proximity to existing or proposed structures and or utility services;
2. Evaluation of the anticipated effects of proposed construction on the viability of the tree;
3. A hazardous tree assessment; if applicable;
4. Plans for supervising, and/or monitoring implementation of any required tree protection or replacement measures; and
5. Plans for conducting post-construction site inspection and evaluation.

E. The Director may condition Master Use Permits or Building Permits to include measures to protect tree(s) during construction, including within the feeder root zone.

25.11.060 Tree Protection on sites undergoing development in Single Family and Residential Small Lot zones.

A. Heritage trees

1. The Director may permit the tree to be removed only if:
a. the maximum lot coverage permitted on the site according to SMC Title 23, the Land Use Code, cannot be achieved without extending into the tree protection area or into a required front and/or rear yard to an extent greater than provided for in subsection A2 of this Section; or

b. avoiding development in the tree protection area would result in a portion of the house being less than fifteen (15) feet in width.

2. Permitted extension into front or rear yards shall be limited to an area equal to the amount of the tree protection area not located within required yards. The maximum yard reduction shall be fifty percent (50%).

3. If the maximum lot coverage permitted on the site can be achieved without extending into either the tree protection area or required front and/or rear yards then no such extension into required yards shall be permitted.

B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above the ground.

1. Trees over two feet in diameter shall be identified on site plans.

2. In order to protect trees over two (2) feet in diameter an applicant may modify their development proposal to extend into front and/or rear yards in the same manner as provided for heritage trees in subsection A of this Section, above.

C. The development shall meet the tree requirements of Section 23.44.008.I.

25.11.070 Tree Protection on sites undergoing development in Lowrise Duplex/Triplex, Lowrise 1, Lowrise 2, and Lowrise 3 Zones.

A. Heritage trees

1. If it is determined that there is a heritage tree located on the site the project shall go through design review as provided in Section 23.41.016 even if the project would normally fall below the threshold for design review as contained in Section 23.41.004.

2. The Director may permit the tree to be removed only if the total floor area that could be achieved within the maximum permitted development coverage and the height limit of the applicable lowrise zone according to SMC Title 23, the Land Use Code, cannot be achieved while avoiding the tree protection area through the following:

a. Development standard departures permitted in Section 23.41.012.

b. An increase in the permitted height as follows:

i. In Lowrise Duplex/Triplex, Lowrise 1, and Lowrise 2 zones, the basic height limit of twenty five (25) provided for in Section 23.45.090A may be increased up to thirty (30) feet; the pitch roof provisions of Section 23.45.090C1 may be modified to permit the ridge of pitched roofs on principal structures with a minimum slope of six to twelve (6:12) to extend up to forty (40) feet, and the ridge of pitched roofs on principal structures with a minimum slope of four to twelve (4:12) may extend up to thirty-five (35) feet.

ii. In Lowrise 3 zones the height of the pitched roof provided for in Section 23.45.090C3 may extend up to ten (10) feet above the maximum height limit.

iii. The increase in height permitted in this Section shall only be approved if it can be demonstrated that it is needed to accommodate, on an additional floor, the amount of floor area lost by avoiding development within the tree protection area. The maximum amount of floor area on an additional floor shall be limited to the amount of floor area lost by avoiding development within the tree protection area. This provision for increased height shall not be permitted if the development is granted a departure from the development standards for setbacks.

c. Parking Reduction. A reduction in the parking standards of Section 23.54.015 may be permitted in order to protect a heritage tree if the reduction would result in a project that would avoid the tree protection area. The reduction shall be limited to a maximum of ten percent (10%) of the number of required parking spaces.

B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above the ground.

1. Trees over two (2) feet in diameter shall be identified on site plans.

2. In order to protect trees over two (2) feet in diameter an applicant may request modification of development standards in the same manner as provided for heritage trees in subsection A of this Section, above.

C. The development shall meet the tree requirements in landscaped areas of Section 23.45.015.C.

25.11.080 Tree Protection on sites undergoing development in Lowrise 4, Midrise, and Commercial Zones.

1 A. The Director may permit a heritage tree to be removed only if the applicant
2 demonstrates that protecting the tree by avoiding development in the tree protection area
3 could not be achieved through the development standard departures permitted in Section
4 23.41.012, and/or a reduction in the parking requirements of Section 23.54.015 up to a
5 maximum reduction of ten percent (10%) of the number of required parking spaces.

6 B. Trees over two (2) feet in diameter measured four and one-half (4 ½) feet above
7 the ground.

8 1. Trees over two (2) feet in diameter shall be identified on site plans.

9 2. In order to protect trees over two (2) feet in diameter an applicant may
10 request modification of development standards in the same manner as provided for Heritage
11 Trees in subsection A of this Section, above.

12 **25.11.090 Tree replacement and site restoration.**

13 A. Each heritage tree and tree over two (2) feet in diameter that is removed in
14 association with development in all zones shall be replaced by one or more new trees, the
15 size and species of which shall be determined by the Director; the tree replacement required
16 shall be designed to result, upon maturity, in a canopy cover that is at least equal to the
17 canopy cover prior to tree removal. Preference shall be given to on-site replacement. When
18 on-site replacement cannot be achieved, or is not appropriate as determined by the Director,
19 preference for off-site replacement shall be on public property.

20 B. No tree replacement is required if the 1) tree is hazardous, dead, diseased, injured
21 or in a declining condition with no reasonable assurance of regaining vigor as determined by
22 a tree care professional, or 2) the tree is proposed to be relocated to another suitable planting
23 site as approved by the Director.

24 **25.11.100 Enforcement and penalties.**

25 A. Authority. The Director shall have authority to enforce the provisions of this
26 chapter, to issue permits, impose conditions, and establish administrative procedures and
27 guidelines, conduct inspections, and prepare the forms necessary to carry out the purposes of
28 this chapter.

29 B. It shall be a violation of this chapter for any person, firm or corporation to
30 remove, clear or take any action detrimental to trees contrary to or in violation of any
31 provision of this chapter. It shall be a violation of this chapter for any person, firm or
32 corporation to knowingly aid and abet, counsel, encourage, hire, commend, induce or
33 otherwise procure another to violate or fail to comply with this chapter.

34 C. Stop-work Order. Whenever a continuing violation of this chapter will materially
35 impair the Director's ability to secure compliance with this chapter, when the continuing
36 violation threatens the health or safety of the public, or when the continuing violation
37 threatens or harms the environment, the Director may issue a stop-work order specifying the
38 violation and prohibiting any work or other activity at the site. The posting of the stop-work

order on the site shall be deemed adequate notice of the stop-work order. A failure to comply with a stop-work order shall constitute a violation of this chapter.

D. Civil Penalties.

1. Any person, firm or corporation who removes a tree in violation of this chapter or any notice, decision or order issued by the Director pursuant to this chapter shall be subject to a civil penalty in the amount equal to the appraised value of the tree(s) affected in accordance with the Guide for Plant Appraisal, 9th Edition, or successor.

2. Any person who fails to comply with Section 23.11.100 C shall be subject to a civil penalty in an amount not to exceed Five Hundred Dollars (\$500.00) a day.

3. The Director shall notify the City Attorney in writing of the name of any person subject to the penalty, and shall assist the City Attorney in collecting the penalty.

E. Restoration. In addition to any other remedies available, violators of this chapter shall be responsible for restoring unlawfully damaged areas in conformance with a plan, approved by the Director, which provides for repair of any environmental and property damage, and restoration of the site; and which results in a site condition that, to the greatest extent practicable, equals the site condition that would have existed in the absence of the violation(s).

F. Criminal Penalty.

1. Anyone violating or failing to comply with any order issued by the Director pursuant to this chapter shall, upon conviction thereof, be punished by a fine of not more than One Thousand Dollars (\$1,000.00) or by imprisonment for not more than three hundred sixty (360) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

2. Anyone violating or failing to comply with any of the provisions of this chapter and who within the past five (5) years has had a judgement against them pursuant to subsection B shall upon conviction thereof, be fined in a sum not to exceed Five Hundred Dollars (\$500.00) or by imprisonment for not more than one hundred and eighty (180) days, or by both such fine and imprisonment. Each day's violation or failure to comply shall constitute a separate offense.

Section 3. Subsection B of Seattle Municipal Code Section 23.41.012 of the Land Use Code, which was last amended by Ordinance 120081, is amended as follows:

SMC 23.41.012 Development standard departures.

B. Departures may be granted from the following requirements:

1. Structure width and depth limits;
2. Setback requirements;
3. Modulation requirements;

- 1 4. SCM zone facade requirements, including transparency and blank façade
2 provisions;
3 5. Design, location and access to parking requirements;
4 6. Open space or common recreation area requirements;
5 7. Lot coverage limits;
6 8. Screening and landscaping requirements;
7 9. Standards for the location and design of nonresidential uses in mixed use
8 buildings;
9 10. Within Urban Centers, in L3 zones only, the pitched roof of a structure,
10 as provided in Section 23.45.009 C, may incorporate additional height of up to twenty (20)
11 percent of the maximum height permitted, as provided in Section 23.45.009, subject to the
12 following limitations:
13 a. A pitched roof may not incorporate the additional height if the
14 structure is on a site abutting or across a street or alley from a single-family residential zone,
15 b. The proposed structure must be compatible with the general
16 development potential anticipated within the zone,
17 c. The additional height must not substantially interfere with views
18 from up-slope properties, and
19 d. No more than one (1) project on one (1) site within each Urban
20 Center may incorporate additional height in the pitched roofs of its structures pursuant to
21 this subsection unless development regulations enacted pursuant to a neighborhood planning
22 process allow other projects to incorporate such additional height;
23 11. Building height within the Roosevelt Commercial Core (up to an
24 additional three (3) feet) for properties zoned NC3-65', (Exhibit 23.41.012 A, Roosevelt
25 Commercial Core);
26 12. Downtown or Stadium Transition Overlay District street façade
27 requirements;
28 13. Downtown upper-level development standards;
29 14. Downtown coverage and floor size limits;
30 15. Downtown maximum wall dimensions;
31 16. Downtown street level use requirements; ~~((and))~~
32 17. Combined coverage of all rooftop features in downtown zones subject to
33 the limitations in Section 23.49.008 C2((-)); and
34 18. Building height in Lowrise zones, and parking standards of Section
35 23.54.015 in Midrise and Commercial zones, in order to protect existing trees as provided in
36 Chapter 25.11.

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38 **Section 4.** Subsection B of Seattle Municipal Code Section 23.41.016 of the Land
39 Use Code, which was last amended by Ordinance 118980, is amended as follows:

SMC 23.41.016 Administrative design review process.

B. Early Design Guidance Process.

1. Following a preapplication conference, a proponent may apply to begin the early design guidance process. Application for the early design guidance process shall include the following:

a. An initial site analysis addressing site opportunities and constraints, the use of all adjacent buildings, and the zoning of the site and adjacent properties; and

b. A drawing of existing site conditions, indicating topography of the site and the location of structures and prominent landscape elements on or abutting the site (including but not limited to all trees six (6) inches or greater in diameter measured four and one half (4 1/2) feet above the ground, with species indicated), if any; and

c. Photos showing the facades of adjacent development, general streetscape character and territorial or other views from the site, if any; and

d. A zoning envelope study which includes a perspective drawing; and

e. A description of the proponent's objectives with regard to site development, including any preliminary design concepts or options.

2. Notice of application shall be provided pursuant to Chapter 23.76, Procedures for Master Use Permits and Council Land Use Decisions.

3. The purpose of the early design guidance process shall be to identify concerns about the site and development program, receive comments from the public, identify those citywide design guidelines of highest priority to the site, and/or explore conceptual design or siting alternatives. As a result of this process, the Director shall identify and prepare a written summary of any guidelines which may not be applicable to the project and site and identify those guidelines of highest priority to the neighborhood. The Director shall incorporate any community consensus regarding the design, as expressed in written comments received, into the guideline priorities, to the extent the consensus is consistent with the design guidelines and reasonable in light of the facts of the proposed development.

4. The Director shall distribute a copy of the priority-guidelines summary to all who sent in comments or otherwise requested notification and to the project proponent.

Section 5. Subsection D of Seattle Municipal Code Section 23.44.014 of the Land Use Code, which was last amended by Ordinance 119791, is amended as follows:

SMC 23.44.014 Yards.

D. Exceptions from Standard Yard Requirements. No structure shall be placed in a required yard except pursuant to the following subsections:

1. Certain Accessory Structures. Any accessory structure may be constructed in a side yard which abuts the rear or side yard of another lot, or in that portion of the rear yard of a reversed corner lot within five (5) feet of the key lot and not abutting the front yard of the key lot, upon recording with the King County Department of Records and Elections an agreement to this effect between the owners of record of the abutting properties. Any accessory structure which is a private garage may be located in that portion of a side yard which is either within thirty- five (35) feet of the centerline of an alley or within twenty-five (25) feet of any rear lot line which is not an alley lot line, without providing an agreement as provided in Section 23.44.016.

2. A single-family structure may extend into one (1) side yard if an easement is provided along the side or rear lot line of the abutting lot, sufficient to leave a ten (10) foot separation between that structure and any principal or accessory structures on the abutting lot. Features and projections such as porches, eaves, and chimneys shall be permitted in the ten (10) foot separation area as if the property line were five (5) feet from the wall of the house on the dominant lot, provided that no portion of either principal structure including eaves shall cross the actual property line. The easement shall be recorded with the King County Department of Records and Elections. The easement shall provide access for normal maintenance activities to the principal structure on the lot with less than the required side yard.

3. Certain Additions. Certain additions may extend into a required yard when the existing single-family structure is already nonconforming with respect to that yard. The presently nonconforming portion must be at least sixty (60) percent of the total width of the respective facade of the structure prior to the addition. The line formed by the nonconforming wall of the structure shall be the limit to which any additions may be built, except as described below. They may extend up to the height limit and may include basement additions. New additions to the nonconforming wall or walls shall comply with the following requirements (Exhibit 23.44.014 A):

a. Side Yard. When the addition is a side wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than three (3) feet to the side lot line;

b. Rear Yard. When the addition is a rear wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than twenty (20) feet to the rear lot line or centerline of an alley abutting the rear lot line;

c. Front Yard. When the addition is a front wall, the existing wall line may be continued by the addition except that in no case shall the addition be closer than fifteen (15) feet to the front lot line;

d. When the nonconforming wall of the single-family structure is not parallel or is otherwise irregular, relative to the lot line, then the Director shall determine the limit of the wall extension, except that the wall extension shall not be located closer than specified in subsections D3a -- c above.

4. Uncovered Porches. Uncovered, unenclosed porches or steps may project into any required yard, provided that they are no higher than four (4) feet on average above existing grade, no closer than three (3) feet to any side lot line, no wider than six (6) feet and project no more than six (6) feet into required front or rear yards.

5. Special Features of a Structure. Special features of a structure may extend into required yards subject to the following standards only, unless permitted elsewhere in this chapter:

a. External architectural details with no living area, such as chimneys, eaves, cornices and columns, may project no more than eighteen (18) inches into any required yard;

b. Bay windows shall be limited to eight (8) feet in width and may project no more than two (2) feet into a required front, rear, and street side yard;

c. Other projections which include interior space, such as garden windows, may extend no more than eighteen (18) inches into any required yard, starting a minimum of thirty (30) inches above finished floor, and with maximum dimensions of six (6) feet tall and eight (8) feet wide;

d. The combined area of features permitted in subsections D5b and c above may comprise no more than thirty (30) percent of the area of the facade.

6. Private Garages, Covered Unenclosed Decks or Roofs Over Patios in Rear Yards.

a. Any attached private garages or covered, unenclosed decks or roofs over patios are portions of principal structures. They may extend into the required rear yard, but shall not be within twelve (12) feet of the centerline of any alley, nor within twelve (12) feet of any rear lot line which is not an alley lot line, nor closer than five (5) feet to any accessory structure. The height of private garages shall meet the provisions of Section 23.44.016 D2 and the height of the roof over unenclosed decks and patios may not exceed twelve (12) feet. The roof over these decks, patios and garages shall not be used as a deck. Any detached private garage meeting the requirements of Section 23.44.016, Parking location and access, or detached permitted accessory structure meeting the requirements of Section 23.44.040, General provisions, may be located in a rear yard. If a private garage has

its vehicular access facing the alley, the private garage shall not be within twelve (12) feet of the centerline of the alley.

b. Garages meeting the standards of Section 23.44.016, shall be permitted in required rear yards, subject to a maximum combined coverage of forty (40) percent of the required rear yard. In the case of a rear yard abutting an alley, rear yard coverage shall be calculated from the centerline of the alley.

7. Private Garages in Front Yards of Through Lots. On through lots less than one hundred twenty-five (125) feet in depth, either an accessory garage structure or a portion of the principal structure containing a garage shall be permitted to locate in one (1) of the front yards. Private garages, either as accessory structures or as a portion of the principal structure, shall be limited as set forth in Section 23.44.016. The front yard in which the garage may be located shall be determined by the Director based on the location of other accessory garages on the block. If no pattern of garage location can be determined, the Director shall determine in which yard the accessory garage shall be located based on the prevailing character and setback patterns of the block.

8. Access Bridges. Uncovered, unenclosed pedestrian bridges of any height, necessary for access and five (5) feet or less in width, are permitted in required yards except that in side yards an access bridge must be at least three (3) feet from any side lot line.

9. Barrier-free Access. Access facilities for the disabled and elderly meeting Washington State Building Code, Chapter 11 are permitted in any required yards.

10. Freestanding Structures and Bulkheads.

a. Fences, freestanding walls, signs and similar structures six (6) feet or less in height above existing or finished grade, whichever is lower, may be erected in any required yard. The six (6) foot height may be averaged along sloping grade for each six (6) foot long segment of the fence, but in no case may any portion of the fence exceed eight (8) feet. Architectural features may be added to the top of the fence or freestanding wall above the six (6) foot height when the following provisions are met: horizontal architectural feature(s), no more than ten (10) inches high, and separated by a minimum of six (6) inches of open area, measured vertically from the top of the fence, may be permitted when the overall height of all parts of the structure, including post caps, are no more than eight (8) feet high; averaging the eight (8) foot height is not permitted. Structural supports for the horizontal architectural feature(s) may be spaced no closer than three (3) feet on center.

b. The Director may allow variation from the development standards listed in subsection D10a above, according to the following:

(1) No part of the structure may exceed eight (8) feet; and

(2) Any portion of the structure above six (6) feet shall be predominately open, such that there is free circulation of light and air.

c. Bulkheads and retaining walls used to raise grade may be placed in any required yard when limited to six (6) feet in height, measured above existing grade. A guardrail no higher than forty-two (42) inches may be placed on top of a bulkhead or retaining wall existing as of the date of the ordinance codified in this section. If a fence is

placed on top of a new bulkhead or retaining wall, the maximum combined height is limited to nine and one-half (9-1/2) feet.

d. Bulkheads and retaining walls used to protect a cut into existing grade may not exceed the minimum height necessary to support the cut or six (6) feet, whichever is greater. When the bulkhead is measured from the low side and it exceeds six (6) feet, an open guardrail of no more than forty-two (42) inches meeting Building Code requirements may be placed on top of the bulkhead or retaining wall. A fence must be set back a minimum of three (3) feet from such a bulkhead or retaining wall.

e. When located in the shoreline setbacks or in view corridors in the Shoreline District as regulated in Chapter 23.60, these structures shall not obscure views protected by Chapter 23.60 and the Director shall determine the permitted height.

11. Decks in Yards. Decks no greater than eighteen (18) inches above existing or finished grade, whichever is lower, may extend into required yards.

12. Heat Pumps. Heat pumps and similar mechanical equipment, not including incinerators, may be permitted in required yards if the requirements of the Noise Control Ordinance, Chapter 25.08, are not violated. Any heat pump or similar equipment shall not be located within three (3) feet of any lot line.

13. Solar Collectors. Solar collectors may be located in required yards, subject to the provisions of Section 23.44.046.

14. Front Yard Projections for Structures on Lots Thirty (30) Feet or Less in Width. For a structure on a lot which is thirty (30) feet or less in width, portions of the front facade which begin eight (8) feet or more above finished grade may project up to four (4) feet into the required front yard, provided that no portion of the facade, including eaves and gutters, shall be closer than five (5) feet to the front line (Exhibit 23.44.014 B).

15. Front and rear yards may be reduced by twenty-five (25) percent, but no more than five (5) feet, if the site contains a required environmentally critical area buffer or other area of the property which can not be disturbed pursuant to subsection A of Section 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

16. Arbors. Arbors may be permitted in required yards under the following conditions:

a. In any required yard, an arbor may be erected with no more than a forty (40) square foot footprint, measured on a horizontal roof plane inclusive of eaves, to a maximum height of eight (8) feet. Both the sides and the roof of the arbor must be at least fifty (50) percent open, or, if latticework is used, there must be a minimum opening of two (2) inches between crosspieces.

b. In each required yard abutting a street, an arbor over a private pedestrian walkway with no more than a thirty (30) square foot footprint, measured on the horizontal roof plane and inclusive of eaves, may be erected to a maximum height of eight (8) feet. The sides of the arbor shall be at least fifty (50) percent open, or if latticework is used, there must be a minimum opening of two (2) inches between crosspieces.

1 ~~((17. Protection of Trees. Front yards may be reduced to protect existing~~
2 ~~trees in rear yards and rear yards may be reduced to protect existing trees in front yards. To~~
3 ~~qualify for this exception, the tree(s) shall be at least six (6) inches in diameter, measured~~
4 ~~four and one half (4 1/2) feet above the ground. The tree must also be in a condition and~~
5 ~~location such that it will not present a hazard to life or property following site development,~~
6 ~~and can be expected to remain healthy for at least twenty (20) years as determined by a~~
7 ~~qualified tree care professional.~~

8 ~~a. Upon the request of the applicant, the Director shall permit the~~
9 ~~applicant to move the proposed development activity and other land disturbance activity and~~
10 ~~obtain up to a five (5) foot reduction in front or rear yard requirements when this would be~~
11 ~~sufficient to protect an existing tree as determined by a qualified tree care professional.~~

12 ~~b. Any yard reduction greater than five (5) feet to protect a tree shall~~
13 ~~require approval through a tree protection special exception. Notice of application and~~
14 ~~review process and procedures for this special exception and of the Director's decision on~~
15 ~~the application shall be provided in the manner prescribed for Type II land use decisions as~~
16 ~~set forth in SMC Chapter 23.76. A tree protection special exception shall be authorized only~~
17 ~~when all the following facts and conditions are found to exist:~~

18 ~~(1) The applicable yard requirements would make it~~
19 ~~impossible to protect existing tree(s) without causing undue hardship; and~~

20 ~~(2) The requested yard reduction does not go beyond the~~
21 ~~minimum necessary to protect the tree(s) as determined by a qualified tree care professional;~~
22 ~~and~~

23 ~~(3) The yard reduction will not result in a development that is~~
24 ~~materially detrimental to the character, design and streetscape of the surrounding~~
25 ~~neighborhood, considering such factors as height, bulk, scale, yards, pedestrian~~
26 ~~environment, and amount of vegetation remaining.))~~

27 **Section 6.** Subsection I of Seattle Municipal Code Section 23.45.014 of the Land
28 Use Code, which was last amended by Ordinance 120117, is hereby deleted.

29 **Section 7.** Subsection B of Seattle Municipal Code Section 23.45.056 of the Land
30 Use Code, which was last amended by Ordinance 119791, is amended as follows:

31 **SMC 23.45.056 Midrise -- Setback requirements.**

32 D. General Setback Exceptions.

33 1. Required Setbacks for Cluster Developments.

34 a. Where two (2) or more principal structures are located on a lot, the
35 required setback between those portions of interior facades which face each other shall be as
36 follows:

1

Length of Facing Portions of Facades (in feet)	Average Setback (in feet)	Minimum Setback (in feet)
40 or less	15	15
41 – 60	20	15
61 – 80	25	15
81 – 100	30	15
101 – 150	40	15
151 or more	50	15

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b. Structures in cluster developments may be connected by underground garages or elevated walkways; provided, that:

(1) One (1) elevated walkway shall be permitted to connect any two (2) structures in the development;

(2) Additional elevated walkways, in excess of one (1), between any two (2) structures may be permitted by the Director when it is determined that by their location or design a visual separation between structures is maintained;

(3) All elevated walkways shall meet the following standards:
i. The roof planes of elevated walkways shall be at different levels than the roofs or parapets of connected structures.

ii. Walkways shall be set back from street lot lines and the front facades of the structures they connect, and whenever possible shall be located or landscaped so that they are not visible from a street.

iii. The design of the walkways and the materials used shall seek to achieve a sense of openness and transparency.

iv. Elevated walkways shall add to the effect of modulation rather than detract from it.

2. Structures in Required Setbacks.

a. Detached garages, carports or other accessory structures are permitted in the required rear or side setbacks, provided that any accessory structure located between a principal structure and the side lot line shall provide the setback required for the principal structure (Exhibit 23.45.056 D). All such accessory structures shall be no greater than twelve (12) feet in height, with open rails permitted above twelve (12) feet.

b. Ramps or other devices necessary for access for the disabled and elderly, which meet Washington State Building Code, Chapter 11 -- Accessibility, are permitted in required front, side or rear setbacks.

c. Uncovered, unenclosed pedestrian bridges, necessary for access and less than five (5) feet in width, are permitted in required front, side and rear setbacks.

d. Permitted fences, freestanding walls, bulkheads, signs and other similar structures, no greater than six (6) feet in height, are permitted in required front, side or rear setbacks.

e. Decks which average no more than eighteen (18) inches above existing grade may project into required setbacks. Such decks shall not be permitted within five (5) feet of any lot line, unless they abut a permitted fence or freestanding wall, and are at least three (3) feet below the top of the fence or wall. The fence or wall shall be no higher than six (6) feet.

f. Underground structures are permitted in all setbacks.

g. Solar collectors are permitted in required setbacks, subject to the provisions of Section 23.45.146, Solar collectors.

h. Fences, Freestanding Walls, Bulkheads, Signs and Other Similar Structures.

(1) Fences, freestanding walls, signs and similar structures six (6) feet or less in height above existing or finished grade whichever is lower, may be erected in each required setback. The six (6) foot height may be averaged along sloping grade for each six (6) foot long segment of the fence, but in no case may any portion of the fence exceed eight (8) feet.

Architectural features may be added to the top of the fence or freestanding wall above the six (6) foot height when the following provisions are met: horizontal architectural feature(s), no more than ten (10) inches high, and separated by a minimum of six (6) inches of open area, measured vertically from the top of the fence, may be permitted when the overall height of all parts of the structure, including post caps, are not more than eight (8) feet high; averaging the eight (8) foot height is not permitted. Structural supports for the horizontal architectural feature(s) may be spaced no closer than three (3) feet on center.

(2) The Director may allow variation from the development standards listed in subsection D2h(1) above, according to the following:

i. No part of the structure may exceed eight (8) feet; and

ii. Any portion of the structure above six (6) feet shall be predominately open, such that there is free circulation of light and air.

(3) Bulkheads and retaining walls used to raise grade may be placed in each required setback when limited to six (6) feet in height, measured above existing grade. A guardrail no higher than forty-two (42) inches may be placed on top of a bulkhead or retaining wall existing as of the effective date of the ordinance codified in this section. If a fence is placed on top of a new bulkhead or retaining wall, the maximum combined height is limited to nine and one-half (9 1/2) feet.

(4) Bulkheads and retaining walls used to protect a cut into existing grade may not exceed the minimum height necessary to support the cut or six (6) feet whichever is greater. When the bulkhead is measured from the low side and it exceeds

six (6) feet, an open guardrail of no more than forty- two (42) inches meeting Building Code requirements may be placed on top of the bulkhead or retaining wall. A fence must be set back a minimum of three (3) feet from such a bulkhead or retaining wall.

i. Arbors. Arbors may be permitted in required setbacks under the following conditions:

(1) In each required setback, an arbor may be erected with no more than a forty (40) square foot footprint, measured on a horizontal roof plane inclusive of eaves, to a maximum height of eight (8) feet. Both the sides and the roof of the arbor must be at least fifty (50) percent open, or, if latticework is used, there must be a minimum opening of two (2) inches between crosspieces.

(2) In each required setback abutting a street, an arbor over a private pedestrian walkway with no more than a thirty (30) square foot footprint, measured on the horizontal roof plane and inclusive of eaves, may be erected to a maximum height of eight (8) feet. The sides of the arbor shall be at least fifty (50) percent open, or, if latticework is used, there must be a minimum opening of two (2) inches between crosspieces.

3. Front and rear setbacks may be reduced by twenty-five (25) percent, but no more than five (5) feet, if the site contains a required environmentally critical area buffer or other area of the property which can not be disturbed pursuant to the provisions of subsection A Exhibit 23.45.056 D Accessory Structures in Required Setbacks of Section 25.09.280 of SMC Chapter 25.09, Regulations for Environmentally Critical Areas.

~~4. Protection of Trees. Front setbacks may be reduced to protect existing trees in rear setbacks and rear setbacks may be reduced to protect existing trees in front setbacks. To qualify for this exception, the tree(s) shall be at least six (6) inches in diameter, measured four and one half (4 1/2) feet above the ground. The tree must also be in a condition and location such that it will not present a hazard to life or property following site development, and can be expected to remain healthy for at least twenty (20) years as determined by a qualified tree care professional.~~

~~a. Upon the request of the applicant, the Director shall permit the applicant to move the proposed development activity and other land disturbance activity and obtain up to a five (5) foot reduction in front or rear setback requirements when this would be sufficient to protect an existing tree as determined by a qualified tree care professional.~~

~~b. Any setback reduction greater than five (5) feet to protect a tree shall require approval through a tree protection special exception. Notice of application and review process and procedures for this special exception and of the Director's decision on the application shall be provided in the manner prescribed for Type II land use decisions as set forth in SMC Chapter 23.76. A tree protection special exception shall be authorized only when all the following facts and conditions are found to exist:~~

~~(1) The applicant setback requirements would make it impossible to protect existing tree(s) without causing undue hardship; and~~

~~(~~

~~(2) The requested setback reduction does not go beyond the minimum necessary to protect the tree(s) as determined by a qualified tree care professional; and~~

~~(3) The setback reduction will not result in a development that is materially detrimental to the character, design and streetscape of the surrounding neighborhood, considering such factors as height, bulk, scale, yards, pedestrian environment, and amount of vegetation remaining.~~

Section 8. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this ordinance, or the invalidity of the application thereof to any person, owner, or circumstance shall not affect the validity of the remainder of this ordinance, or the validity of its application to other persons, owners or circumstances.

Section 9. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2001, and
signed by me in open session in authentication of its passage this ____ day of
_____, 2001.

President of the City Council

Approved by me this ____ day of _____, 2001.

Paul Schell, Mayor

Filed by me this ____ day of _____, 2001.

City Clerk

(SEAL)